

SENATE BILL 2884

By Crowe

AN ACT to amend Tennessee Code Annotated, Title 4 and Title 37, relative to closure of child protective services observation and assessment centers.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 37, Chapter 1, Part 1, is amended by adding the following as a new section:

§37-1-130.

(a) In addition to other duties required by this title, the department of children's services shall provide written notice to the house health and human resources committee and the senate general welfare, health and human resources committee of its intent to propose legislation to permit immediate or gradual closure of any state-owned or state-operated facility that provides child protective services observation and assessment services at least sixty (60) days prior to the next legislative session.

(b) Any state-owned or state-operated facility or group home that provides child protective services observation and assessment services and that has been funded by the general assembly in any fiscal year, shall not be closed, nor shall the department announce the pending closure of the facility, during the same fiscal year except through compliance with subsection (a) of this section.

(c) The department may close any state-owned or state operated facility that provides child protective services observation and assessment services only upon the effective date of an adopted act of legislation for that purpose or with a specific line item appropriation for that purpose in an annual appropriations act.

(d) When a demonstrated health or safety emergency exists for a facility or a federal action that requires or necessitates a gradual or immediate closure exists for the facility, the department may seek relief from the requirements of this section in the chancery court of the county where the facility is located.

(e) Any aggrieved person, or other interested parties, with standing may challenge the decision of the state to close a facility in a de novo hearing in the chancery court of the county in which the facility is located, or in Davidson County chancery court. In addition to other relief allowable by law, the aggrieved person or other interested party with standing may seek compensatory damages and attorney fees. Punitive damages shall not be allowable under this section.

(f) A court hearing as provided under subsection (e) shall consider each of the following items relevant to the closure of the facility:

- (1) Estimated timelines for the implementation of the closure of the facility;
- (2) The types and array of available and accessible community-based services for individuals needing observation and assessment;
- (3) The responsibilities of state and local governments;
- (4) The process used to transfer ownership or the state's plan to reuse the property; and
- (5) Other issues identified by the department, an aggrieved person, or other interested party, with standing that may affect the individuals needing observation and assessment, their families, employees, and the community.

(g) For any facility that the department has announced plans for closure prior to July 1, 2010, other than pursuant to a federal court order or settlement the department shall be subject to the notice provisions of this section within ten (10) days of July 1,

2010. The department shall delay proceedings toward closure until the proceedings for all hearings permitted under this section have been completed.

SECTION 2. This act shall take effect July 1, 2010, the public welfare requiring it.